

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

GIBSON, INC.,

Plaintiff,

V.

ARMADILLO DISTRIBUTION
ENTERPRISES, INC. and
CONCORDIA INVESTMENT
PARTNERS, LLC,

Defendants.

[illegible]

Civil Action No. 4:19-cv-00358-ALM

**DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFF GIBSON, INC.'S
OPPOSED MOTION TO AMEND ORDER SETTING FINAL PRETRIAL
CONFERENCE AND TRIAL**

useful guidance concerning document issues during the March 7, 2025 Pretrial Conference, as he did during the 2022 Pretrial Conference. Also, there are likely going to be issues for the Court to resolve during the Pretrial Conference that are not appropriate for resolution in a Rule 104 hearing. Said differently, we believe there is a continuing need for a Pretrial Conference. **Finally, we do not believe it would be fair to require potential jurors to give up part of a third workweek to allow the lawyers to pick the jury the Friday prior to the start of trial.** (Emphasis added).¹

The next day, January 9, 2025, Gibson filed its pending Opposed Motion for Pretrial Evidentiary Hearing. (Dkt. 663). Gibson's motion made no mention of moving the start of jury selection from March 10 to March 7, 2025, and we thought the matter was closed.

But on January 28, 2025, Gibson filed its Opposed Motion to Amend Order Setting Final Pretrial Conference and Trial requesting to have jury selection follow the Pretrial Conference on March 7, 2025. (Dkt. 668). Gibson explains that spring break starts for its jury consultant's children on March 10, 2025 and the consultant now plans to be on spring vacation on March 10, 2025.

Defendants do not lightly oppose a request to move a scheduled date for family convenience, but the date for jury selection has been in place since last September. Moving jury selection from Monday to the preceding Friday after the Pretrial Conference creates prejudice to the jury pool and to Defendants. First, the jury pool: Defendants defer to the Court about jurors in the Division but, Defendants hesitate to ask potential jurors to give up part of a third workweek.

Second, shoehorning jury selection into the same day as, but following, the Pretrial Conference is not a fair and practical solution. Even with good-faith efforts that have reduced

¹ The email exchange is attached as Exhibit 1 hereto.

the number of issues to be resolved during the Pretrial Conference, Defendants anticipate the Pretrial Conference will extend into the afternoon. It is unlikely that the Court and parties can meaningfully address the issues remaining for resolution at the Pretrial Conference and then have sufficient time to complete jury selection.

In view of the foregoing, the Court should deny Gibson's Motion to amend the date of jury Selection to Friday, March 7, 2025.

Dated: January 31, 2025

Respectfully submitted,

/s/ Jerry R. Selinger

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CERTIFICATE OF SERVICE

I certify that on January 31, 2025, the foregoing document was electronically filed with the clerk of the court for the U.S. District Court, Eastern District of Texas, using the electronic case filing (“ECF”) system of the court. The attorneys of record who have consented in writing to accept notice as service of this document by electronic means are being served by a “Notice of Electronic Filing,” sent by the ECF system.

/s/ Jerry R. Selinger
Jerry R. Selinger